

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

COREY THOMAS,

Defendant.

ORDER

12-cv-269-bbc

08-cr-87-bbc

On February 11, 2014, defendant Corey Thomas filed a motion for relief from judgment under Fed. R. Civ. P. 60(b), in which he attacked his criminal conviction and sentence as unconstitutional. In an order dated the same day, I construed defendant's motion as one brought under 28 U.S.C. § 2255 and denied it as a successive motion under § 2255, that did not have prior certification by a panel of the court of appeals. Defendant filed a motion for reconsideration, which was denied on February 25, 2014.

Now defendant has filed a notice of appeal from February 12 and February 25, 2014 orders and a motion to proceed in forma pauperis on appeal. According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization "unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed." Defendant had appointed counsel during the

criminal proceedings against him and I do not intend to certify that the appeal is not taken in good faith. Defendant's challenge to his sentence is not wholly frivolous. A reasonable person could suppose that it has some merit. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

ORDER

IT IS ORDERED that defendant Corey Thomas's request for leave to proceed in forma pauperis on appeal is GRANTED.

Entered this 11th day of March, 2014.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge